

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: Chron File (02/24/1983-02/29/1983)
Box: 59

To see more digitized collections visit:
<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:
<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

February 24, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Transmittal of Constituent
Mail by Senator Moynihan

Senator Moynihan has sent a brief note, addressed to the President, transmitting two letters from constituents to the President. One letter is from Paul Robert DiBenedetto, a blind individual recently convicted of mail fraud in the Southern District of New York. DiBenedetto claims his handicap prejudiced his defense, and argues that if the Department of Justice had issued regulations as required by the Rehabilitation Act of 1973, he would have been more fairly treated. The other letter is from Luis M. Barcelo, Chairman of "The National Veteran Coalition." Mr. Barcelo supports DiBenedetto's contention, and urges review of DOJ's delay in issuing the handicap regulations.

Copies of the DiBenedetto and Barcelo letters were also forwarded to the President by Congressman Ben Gilman. Ken Duberstein wrote a brief reply to Gilman and referred the letters to DOJ for direct response. Moynihan's letter should also have been routed to Legislative Affairs in the first place; it should now be sent there so that it and Gilman's referral are treated in the same fashion. I have drafted a memorandum to Duberstein for your signature.

THE WHITE HOUSE
WASHINGTON

February 24, 1983

MEMORANDUM FOR KENNETH M. DUBERSTEIN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Transmittal of Constituent Mail
by Senator Moynihan

The attached note from Senator Moynihan forwarding two constituent letters to the President was recently routed to this office. I am advised that Congressman Gilman also forwarded copies of the same two constituent letters to the President, and that this package was, appropriately, routed to your office. You responded to Congressman Gilman and transmitted the constituent letters to the Department of Justice for direct response. I am sending the Moynihan letter to you so that it may be treated in the same manner.

Attachments

FFF:JGR:aw 2/24/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Lyn Nofziger Correspondence on OMB's
Proposed Revision of Circular A-122

Lyn Nofziger has written objecting to OMB's proposed limits on political advocacy by government grantees and contractors. This proposal has become known, through shorthand designation, as the "A-122 proposal." Although A-122 itself only concerns the activities of non-profit organizations receiving government grants, the proposed revisions of A-122 announced by OMB are linked to corresponding proposals issued by Defense, GSA, and NASA concerning government contractors.

Nofziger states that the proposal is vague, would require detailed records of the political activities of employees of government contractors, and will prevent business from helping obtain passage of legislation, an activity traditionally requested by White Houses. He encloses a two-page analysis of the A-122 proposal.

I have drafted a brief reply for your signature, stating that the proposal is being carefully reviewed by the Administration -- which I take it is now the case.

THE WHITE HOUSE

WASHINGTON

February 28, 1983

Dear Lyn:

Thank you for your recent memorandum on OMB's proposed revision of Circular A-122 and the related revisions affecting government contractors. The questions which have been raised concerning these proposals are being carefully reviewed within the White House, and you may be assured that your views will be given every appropriate consideration. Thank you for making us aware of your concerns and for sharing your analysis of the proposals with us.

With best personal regards,

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Lyn Nofziger
1605 New Hampshire Avenue, NW
Washington, D.C. 20009

FFF:JGR:aw 2/28/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 24, 1983

FOR: FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: FOIA Survey Conducted by
Texas Tech University Researchers

Dr. Dan Siminoski of Texas Tech has written asking that you fill out a questionnaire on your experience as an FOIA administrator. The 76-question survey asks for your views on the FOIA and problems that arise in administering it. I recommend a brief note to Siminoski explaining that, since the White House Office is not subject to the FOIA, we cannot properly be considered "FOIA administrators," and are not in a position to respond to his survey questions. I do not recommend simply filling out the "confidential" survey and returning it because the respondents are identified by number, and some of the questions are politically sensitive. I have drafted a proposed letter.

THE WHITE HOUSE

WASHINGTON

February 24, 1983

Dear Dr. Siminoski:

Thank you for your letter of February 8, 1983 and the accompanying "Survey of Freedom of Information Act Administrators." Please be advised that the White House Office, "whose sole function is to advise and assist the President," is not subject to the Freedom of Information Act. Kissinger v. Reporters Committee for Freedom of the Press, 445 U.S. 136, 156 (1980). Accordingly, we are not in a position to respond to your survey which concerns experience in administering the FOIA.

Thank you for writing, and best of luck with your important project. I am sorry that I could not be more responsive.

Sincerely,

Fred F. Fielding
Counsel to the President

Dr. Dan Siminoski
Project Co-Director
Center for Public Service
Texas Tech University
Box 4290
Lubbock, Texas 79409

FFF:JGR:aw 2/24/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 24, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Note from Glen Best on GSA Corruption

Private citizen Glen Best wrote the President a brief note asking him to comment on the suggestion that he "got cold feet" when he confronted the problem of corruption at GSA because he was concerned it might hurt him politically. Best enclosed a page from a Reader's Digest article which he believed conveyed this suggestion.

I assume this was routed to us because of the "corruption" charge, but the letter really merits only a concerned citizen type of response. I have drafted one for your signature, quoting a recent reference by the President to cleaning up GSA.

THE WHITE HOUSE

WASHINGTON

February 24, 1983

Dear Mr. Best:

I am writing in response to your letter to the President concerning corruption in the General Services Administration. In that letter you asked the President to comment on the suggestion that he "got cold feet" when attacking the problem of corruption in GSA because of fears that "it might hurt [him] politically."

Let me assure you that eliminating fraud, waste, and corruption in government was and remains a top priority of this Administration. Just last week, in an address before the Conservative Political Action Conference, the President stated:

"For too many years, bureaucratic self-interest and political maneuvering held sway over efficiency and honesty in government; Federal dollars were treated as the property of bureaucrats, not taxpayers. Those in the federal establishment who pointed to the misuse of those dollars were looked upon as malcontents or troublemakers.

This administration has broken with what was a kind of a buddy system. There have been dramatic turnabouts in some of the more scandal-ridden and wasteful federal agencies and programs. Only a few years ago the General Services Administration was racked by indictments and report after report of inefficiency and waste. Today at GSA, Jerry Carmen has not only put the whistleblowers back in charge -- he's promoted them and given them new responsibilities."

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Lt. Col. Glen Best, USAF (Ret)
581 Kamoku
#602
Honolulu, Hawaii 96826

FFF:JGR:aw 2/24/83
cc: FFFielding/JGRoberts/Subj./Chron

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

February 24, 1983

FOR: FRED F. FIELDING
FROM: JOHN G. ROBERTS *JGR*
SUBJECT: Kenneth Kneisley Inquiry

On February 8 I submitted a proposed response to an inquiry from Kenneth Kneisley concerning use of the Presidential Seal. In what may have been excessive zeal to safeguard the Seal from all enemies, foreign and domestic, I included a paragraph advising Kneisley to discontinue use of an American Eagle emblem on his stationery. The memorandum returned with your marginal inquiry: "Are you sure about Eagle?"

The short answer is no. The long answer follows. The eagle on Kneisley's stationery is the eagle from the Great Seal, which, with the exception of the shape of the shield and positioning of the banner, is the same bird found on the Presidential Seal. Since 18 U.S.C. § 713(b) prohibits reproduction of a substantial part of the Presidential Seal, and since the most substantial part of the Seal is the eagle, I thought Kneisley's use could be considered unlawful. The argument on the other side is that (1) a sufficient number of characteristics of the Presidential Seal are lacking, such as the rays, the "clouds," and the encircling stars, and (2) this is closer to the Great Seal, and Congress expressly decided to permit citizens to use the Great Seal, so long as the use does not convey a false impression of government sponsorship. See S. Rep. 91-1508, 91st Cong., 2d Sess. (1970) (rejecting proposal to subject use of Great Seal to regulations, as with Presidential Seal, because of purported widespread use of the Great Seal as a private patriotic expression).

On reflection, it appears somewhat persnickety to chastise Kneisley for what is at best a close call on the use of the eagle, particularly since his inquiry was entirely unrelated to this use. I have attached a revision of the letter with the paragraph in question deleted.

THE WHITE HOUSE

WASHINGTON

February 24, 1983

Dear Mr. Kneisley:

Thank you for your letter inquiring into the use of the Presidential Seal and how to obtain a copy of the seal and a Presidential flag. Title 18 of the United States Code, Section 713 generally prohibits the use of the Seals of the President and Vice President, except in accordance with regulations promulgated by the President. Those regulations are embodied in Executive Order 11649. A copy of the statute and implementing regulations are enclosed for your information.

The regulations do permit certain libraries and museums to use the Presidential seal. I would be happy to respond directly to any inquiries Mr. Gary or Mr. Snider may have concerning permitted uses of the seal.

Thank you for your inquiry.

Sincerely,

Fred F. Fielding
Counsel to the President

Mr. Kenneth E. Kneisley
115 East Washington
Bluffton, Ohio 45817

Enclosures

FFF:JGR:aw 2/24/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 24, 1983

Dear Mrs. Will:

With regard to your prospective appointment as Assistant Secretary for Special Education and Rehabilitative Services, it will be necessary for you to complete the enclosed Personal Data Statement and Financial Disclosure Report. Please return these forms to me at your earliest convenience.

With best wishes,

Sincerely,



John G. Roberts
Associate Counsel
to the President

Mrs. Madeleine C. Will
4 West Melrose
Chevy Chase, Maryland 20815

Enclosures

THE WHITE HOUSE

WASHINGTON

February 24, 1983

Dear Mrs. Herrington:

With regard to your prospective appointment as Assistant Attorney General, Office of Justice Assistance, Research and Statistics, it will be necessary for you to complete the enclosed Personal Data Statement and Financial Disclosure Report. Please return these forms to me at your earliest convenience.

With best wishes,

Sincerely,



John G. Roberts
Associate Counsel
to the President

Mrs. Lois H. Herrington
1104 Waverly Way
McLean, Virginia 22102

Enclosures

THE WHITE HOUSE

WASHINGTON

February 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Request from Ray Hamilton for
Official Recognition of his "Miss
Nations United Beauty Pageant"

Ray Hamilton Productions, Inc., is trying to market a beauty pageant with contestants from each of the United Nations countries. He has written numerous officials -- including Ambassador Kirkpatrick, Senator Moynihan, and Senator D'Amato -- to obtain official approval of the pageant and sponsorship of a U.S. contestant. Most recently he has written Anne Higgins, Director of Presidential Correspondence, to determine who has the authority to acknowledge U.S. participation. Hamilton asserts that a "portion" of the net proceeds will go to the U.N. Refugee Fund, but the pageant is clearly a private commercial endeavor. Higgins has prepared a reply indicating it is not customary for the Office of the President to sponsor or participate in a private, commercial undertaking, and wants this office to approve the reply. I see no objection to such approval, and have prepared a memorandum to Higgins for your signature.

THE WHITE HOUSE

WASHINGTON

February 24, 1983

MEMORANDUM FOR ANNE HIGGINS
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request from Ray Hamilton for
Official Recognition of his "Miss
Nations United Beauty Pageant"

Counsel's Office has no objection to the attached draft
reply to the inquiry from Ray Hamilton seeking official
recognition of his proposed beauty pageant.

Attachment

FFF:JGR:aw 2/24/83

cc: FFFielding
JGRoberts
Subj.
Chron

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS ~~PAR~~

SUBJECT: Perian Correspondence

Julia Perian of Forestville, Maryland has written the President, urging him to review the Abscam prosecutions personally and not simply refer her letter to the Department of Justice. Ms. Perian enclosed a copy of the Gannett News Service special issue on Abscam. I have drafted a reply noting that the White House does not interfere with specific DOJ criminal investigations or cases. Since Ms. Perian sent us the Gannett issue, I also thought it not inappropriate to provide her with two addresses, by the Attorney General and Judge Webster, presenting the other side.

Attachment

THE WHITE HOUSE
WASHINGTON

February 24, 1983

Dear Ms. Perian:

Thank you for your recent letter to the President concerning the Abscam investigations and prosecutions. I am confident you will appreciate that it would be inappropriate for White House officials to comment on the details of these cases, some of which, as you note in your letter, are still pending on appeal. As a matter of policy, the White House does not interfere in any way in the investigation or prosecution of specific criminal cases by the Department of Justice.

For your information, however, I have enclosed an address by the Attorney General and an address by the Director of the Federal Bureau of Investigation on the subject that you may find of interest.

Thank you for writing.

Sincerely,

Fred F. Fielding
Counsel to the President

Ms. Julia P. Perian
5505 Lubbock Street
Forestville, Maryland 20747

Enclosures

FFF:JGR:aw 2/24/83

cc: FFFfielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 24, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: WBZ Fund for the Arts

Jim Coyne, Special Assistant to the President for Private Sector Initiatives, has asked if WBZ-TV's fundraising scheme for the arts is legal. According to Coyne, WBZ-TV has established a 501(c)(3) organization, WBZ Fund for the Arts. WBZ-TV agrees to advertise upcoming performances by deserving groups if the groups will donate 10 percent of the gate to the WBZ Fund for the Arts. WBZ is seeking backing of an undertermined nature from the Private Sector Initiatives Office, and Coyne wanted to determine if the scheme was legal before pursuing discussions with WBZ.

I raised the matter with Bruce Fein, General Counsel at the Federal Communications Commission. Fein saw no problems with the WBZ scheme, nor has my limited independent research disclosed any. Coyne's inquiry was very general, and did not concern any specific involvement by the Office of Private Sector Initiatives. In light of these facts, and the general inadvisability of our office opining in the abstract on the legality of the activities of outside parties, I recommend simply orally advising Coyne that we see no problems with WBZ's general scheme. If a specific proposal for involvement by Coyne's office develops, we can advise him in writing at that time. If you agree, I will call Coyne.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Draft Legislation, Fact Sheet and
Presidential Statement Re: Natural Gas

Richard Darman has requested comments by close of business February 25 on draft natural gas decontrol legislation, a proposed Presidential statement on submission of the legislation, and a draft fact sheet. The package is accompanied by a memorandum for the President from Secretary Hodel. Hodel states that the legislation is the specific proposal developed from the general outline presented to the Cabinet earlier this month, revised after consultation with Congressional leaders. Hodel urges transmittal of the legislation as soon as possible.

The only difficulty I have with the package is that the legislation is, in my view, constitutionally suspect. Section 302 of the bill repeals certain "take or pay" provisions in contracts for the delivery of natural gas. Under such not uncommon provisions, purchasers of natural gas agree to accept certain amounts of gas, or pay for the gas even if they do not accept it. The legislation, by repealing these "take or pay" provisions, deprives natural gas sellers of valuable contract rights. While the Contracts Clause, barring states from passing laws impairing the obligation of contracts, U.S. Const. art. I, § 10, does not by its terms apply to federal laws, contract rights are property rights and the federal government cannot deprive private parties of such property rights without just compensation. U.S. Const. amend. V. The analysis in "takings clause" cases is an essentially ad hoc balancing of the harm to private parties against public benefits from the taking, so it is difficult to determine in advance whether a particular law will run afoul of the takings clause. I would not, therefore, want to derail the proposed legislation at this late date. I do, however, feel obligated to raise the concern, and have done so in the proposed memorandum to Darman. I have also suggested that at some point in the legislative process a severability clause be added to the bill, so any problems with § 302 do not bring down the whole house of cards.

Attachment

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Draft Legislation, Fact Sheet and
Presidential Statement Re: Natural Gas

Counsel's Office has reviewed the proposed natural gas legislation, Presidential statement, and fact sheet. While we do not object to going forward with submission of the legislation and issuance of the statement and fact sheet, it should be noted that section 302 of the bill raises significant Constitutional concerns. That section affects existing contractual rights in a manner that may be considered to constitute a "taking" of private property without just compensation. Those dealing with the legislation should be prepared to address this issue. In particular, at some point in the legislative process a severability clause should be added so that if section 302 is struck down the entire bill will not be jeopardized.

FFF:JGR:aw 2/25/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Proposed Executive Order Entitled
"Nuclear Cooperation With Euratom"

Richard Darman has requested comments by February 28 on the above-referenced proposed executive order. The Atomic Energy Act prohibits nuclear cooperation with any country which does not give the United States a right of approval over reprocessing of U.S.-supplied nuclear material. 42 U.S.C. § 2156(5). The U.S. has been cooperating with EURATOM, the European nuclear organization, for over two decades. The agreements which form the basis for this cooperation do not recognize the required U.S. right of approval. The Act nonetheless permits year-by-year continuation of this cooperation if the President (1) determines that failure to extend cooperation would be seriously prejudicial to non-proliferation objectives or otherwise harm defense interests, (2) notifies Congress of this determination, and (3) issues an appropriate executive order. 42 U.S.C. § 2155(a)(2). President Carter extended the period of cooperation in 1980, and President Reagan did so in 1981 and 1982.

The Department of State prepared the attached executive order and letters to Congress. They have been approved by OMB and, as to form and legality, by the Office of Legal Counsel. I see no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

February 25, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Executive Order Entitled
"Nuclear Cooperation With Euratom"

Counsel's Office has reviewed the above-referenced proposed executive order, and the accompanying draft letters to Congress, and finds no objection to them from a legal perspective.

FFF:JGR:aw 2/25/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *gjr*

SUBJECT: Fundraiser to Retire Debt of Jim Coyne's
1982 Congressional Campaign Committee

Jim Coyne, Special Assistant to the President for Private Sector Initiatives, has asked for guidance concerning a fundraiser to retire the debt owed to him by his 1982 congressional campaign committee. This office has recently provided guidance on the subject of retiring campaign debts to David Emery and Margaret Heckler, who presented similar questions. Coyne's situation is somewhat different than that of either Emery or Heckler since Coyne is already on board as a Special Assistant to the President. At the same time, however, his situation would seem to raise fewer problems, because his office performs no regulatory role nor does it typically have business dealings of any sort with the private sector. And, in any event, the memoranda to Emery and Heckler advised them that they should consider themselves subject to federal employee and White House standards as if they had already been appointed, to avoid appearance problems.

One provision that was not considered in the Emery or Heckler memoranda, but should be in Coyne's case, is whether committee payments to Coyne would violate 18 U.S.C. § 209 as supplementations of his federal salary. This section prohibits supplementation of salary "as compensation for . . . services as an officer or employee of the executive branch." The critical question is whether the payor or recipient intended the payment to be for government services or for something else. In this case the committee rather clearly would be paying Coyne not for his government services but because it is liable on a pre-existing debt. Contributions to the committee must, however, be considered indirect payments to Coyne, and some contributors may be motivated by a desire to supplement Coyne's federal salary. Following the established OGE test for § 209 matters, Coyne and the Committee should be advised not to accept any gift that they have reason to believe would not have been made but for Coyne's Federal employment.

I have revised the Emery and Heckler memoranda for use in Coyne's case. In particular, I have deleted the requirement that Coyne provide us with a list for pre-clearance of those individuals or entities his committee intends to solicit. Since Coyne's office does not regulate or have dealings with any particular industry, such a list would be meaningless. With your approval, I will review this informally with the Office of Government Ethics. Assuming they agree with its substance -- as they did in the cases of Emery and Heckley -- we can then send it on to Coyne.

THE WHITE HOUSE

WASHINGTON

February 28, 1983

March 1, 1983

MEMORANDUM FOR THE HONORABLE JAMES COYNE
SPECIAL ASSISTANT TO THE PRESIDENT
PRIVATE SECTOR INITIATIVES

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Retirement of the Debts of the
James Coyne for Congress Committee

As a Special Assistant to the President for Private Sector Initiatives, you are in a unique position with regard to your efforts to retire the campaign debts of your 1982 Congressional Campaign Committee (the "Committee"). As a Special Assistant to the President, and an SES employee of the Department of Commerce detailed to the White House, you are subject to the Standards of Ethical Conduct for Government Officers and Employees as set forth in Executive Order No. 11222, and, as a matter of policy, the Standards of Conduct for White House Employees, 3 C.F.R. § 100.735. Further, several provisions of the Federal Criminal Code, 18 U.S.C. §§ 201, 203, 209, 210, 211, 602, 603 and 607 are applicable to you as a Federal employee and should be reviewed carefully in the course of retiring the Committee's debts. Since the Committee owes a substantial debt to you as an individual, contributions to the Committee must be considered indirect payments to you.

Outlined below is our analysis of the restrictions of each of the statutory provisions */ and the Executive Order noted above which are or should be considered applicable to your activities in connection with any efforts to retire the debts of the Committee. Additionally, we have attached a summary of the general guidelines which you and your campaign committee should follow in planning the Committee's fundraising activities to retire the Committee's debts.

*/ All references to statutory requirements contained herein, unless otherwise specifically noted, are paraphrases of the referenced statutes. Accordingly, when in doubt as to the applicability of these statutory provisions to specific facts or circumstances, reference should be made directly to the statute in question.

18 U.S.C. § 201: provides in part that any public official may not solicit, accept, receive or agree to receive anything of value for himself or for any other person or entity, in return for being influenced in his performance of any official act; for being induced to do or omit any act in violation of his official duty; or being influenced in his testimony under oath in any proceeding before any court or Congressional hearing. Violations of this provision are punishable by fine, imprisonment or both, and possible disqualification from holding any office of honor or trust under the United States.

Additionally, 18 U.S.C. § 201 prohibits any public official from soliciting, accepting, receiving or agreeing to receive anything of value for himself or for another person or entity for or because of any official act, including testimony before any court or Congressional committee, to be performed by him. Violations of this provision are punishable by fine, imprisonment or both.

Under certain circumstances these restrictions may preclude you or the Committee from accepting any contributions from individuals or political committees, including political action committees (PAC's), whose specific purpose in making such contribution is to influence your official acts. To avoid any appearance of a violation of this provision, you and the Committee should not solicit or accept contributions from any individual, political committee or organization which has interests or represents individuals or organizations having interests that are now or will be affected by the actions or non-actions of the Office of Private Sector Initiatives.

18 U.S.C. § 203: prohibits Members of Congress, or officers or employees of the Federal government from receiving, soliciting, or seeking any compensation for services rendered by them or any other person on behalf of another person in relation to any proceeding, request for a ruling or other determination, controversy or particular matter in which the United States is a party or has a direct and substantial interest. Violation of this provision is punishable by fine, imprisonment or both. Accordingly, you and the Committee should not accept contributions from any individual, political committee or organization if the acceptance of such contribution could reasonably be perceived as compensation for anticipated services to be rendered by you as a Federal employee on behalf of such individuals or groups represented by such political committees. Hence you should not solicit or accept contributions from

entities which have or will have interests pending before the Office of Private Sector Initiatives or before other Federal government agencies which could reasonably be construed to be subject to significant influence by you.

18 U.S.C. § 209: prohibits supplementation of the salary of a Federal official as compensation for his services as a Federal official. No payments to the Committee may be solicited or accepted as additional compensation for your services as a Special Assistant to the President. Contributions may only be solicited and accepted to retire the Committee's preexisting debt. As a general matter, you and the Committee should not accept any contributions which you have reason to believe would not have been made but for your current Federal employment.

18 U.S.C. § 210: prohibits the payment of money or anything of value to any person, firm or corporation in consideration of the use or promise to use any influence to procure any appointive office in the United States.

18 U.S.C. § 211: prohibits the solicitation or receipt, either as a political contribution or personal emolument, of any money or thing of value in consideration for the promise of support or use of influence in obtaining for any person any appointive office in the United States.

Out of an abundance of caution, these prohibitions should be viewed by you and the Committee as prohibiting the acceptance of any contributions from individuals whom you may wish to appoint to positions within your office, or who are seeking appointments to positions within your office or any other position within the Federal government.

18 U.S.C. § 602: prohibits any candidate for the Congress, any Senator or Congressman, or any officer or employee of the United States or any department or agency thereof, from knowingly soliciting political contributions from any other such officer or employee.

Thus, you and the Committee should take the steps necessary to ensure that no Senators or Congressmen, or officers or employees of the Federal government, are knowingly solicited for contributions to the Committee.

18 U.S.C. § 603: prohibits an officer or employee of the Federal government from making political contributions to their supervising officers in the Federal government. For purposes of this provision, a contribution to a political committee authorized by an officer of the Federal government is considered a contribution to such officer.

The Committee, therefore, should not accept any contributions from individuals presently employed by your office.

18 U.S.C. § 607: prohibits the solicitation or acceptance of a political contribution in a Federal building. There is an exception to this prohibition for the receipt of contributions in Federal buildings by persons on the staff of a Senator or Congressman under specific circumstances, but such exception would no longer be applicable to you or the Committee.

This provision would preclude all solicitation of contributions at the Office of Private Sector Initiatives. Further, in the event that any political contributions to the Committee are received at your office, such contributions should be returned directly to the donor with instructions as to the appropriate mailing address for the Committee.

Section 201(c) of Executive Order No. 11222 provides in part:

It is the intent of this section that employees avoid any action . . . which might result in, or create the appearance of:

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the Government.

You and the Committee should, therefore, avoid soliciting or accepting unsolicited contributions whose receipt will create the appearance of precluding your exercise of independent judgment or impartial action with regard to the issues coming before you. Accordingly, you and the Committee should not accept contributions from individuals or political committees who have not previously contributed to your political committees and whose contributions, in light of your current position, could be viewed as efforts to affect your independence and impartiality in issues coming before you. Additionally, you and the Committee should not solicit contributions in any manner that suggests that you are using your appointment to Federal office for personal gain. Solicitations by the Committee referring to your current position could create such an appearance, and should, therefore, be avoided.

Finally, the issues raised by settlement of the debts of the Committee for less than their full amount are governed by the provisions of the Federal Election Campaign Act of 1971, as amended, and its regulations. Although a full discussion of those provisions is beyond the scope of this memorandum, you should be aware that all of the above considerations which apply to contributions would also apply to the forgiveness of all or part of an existing debt.

Attachment

FFF:JGR:aw 2/28/83

cc: FFFielding
JGRoberts
Subj.
Chron

SUMMARY OF GENERAL GUIDELINES FOR
ACCEPTANCE OF POLITICAL CONTRIBUTIONS

I. GENERAL RULE:

The Committee should not solicit or accept contributions from any individual, political committee, or organization (a) if the individual or entities represented by the Committee or organization has interests in matters which are or may be pending before your office or is affected or regulated by any policies, decisions or regulations of your office, or (b) if such solicitation or acceptance would create the appearance of precluding your exercise of independent judgment or impartial action with regard to the issues coming before you, or otherwise affect adversely the confidence of the public in the integrity of the government.

II. SPECIFIC PROHIBITIONS:

Do not accept any contributions from individuals whom you may wish to appoint to positions within the Office of Private Sector Initiatives.

Do not accept any contributions from individuals who are seeking appointments within the Office of Private Sector Initiatives or any other position within the Federal government.

Do not solicit any Senators, Congressmen or officers or employees of the Federal government for contributions to the Committee.

Do not accept any contributions from individuals presently employed by the Office of Private Sector Initiatives.

Do not solicit or accept any contributions in your Federal offices. If any contributions are received at these offices, such contributions should be returned directly to donors with instructions as to the appropriate mailing address of the Committee.

Do not solicit contributions in any manner which suggests that you or the Committee are using your appointment to Federal office for your personal gain. Solicitations should not include reference to the fact of your current Federal employment.

THE WHITE HOUSE

WASHINGTON

February 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Testimony of Benjamin F. Baer,
Chairman, U.S. Parole Commission

The Department of Justice has submitted the above-referenced proposed testimony, scheduled to be delivered on March 2 during oversight hearings of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. The testimony briefly reviews developments over the past two years at the Parole Commission, including (1) development of pre-hearing review procedures, (2) use of new parole eligibility "scoring" systems, and (3) various research and automation projects. The testimony notes that the shift to smaller federal prisons has increased parole officers' travel time demands, and notes that the Commission is examining teleconferencing and the like to alleviate this burden. I see no legal objections to the testimony.

THE WHITE HOUSE

WASHINGTON

February 28, 1983

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decisions in
Transatlantic; Houston-Acapulco; Dallas/
Ft. Worth-London; and Capitol Air, Inc.

This memorandum is addressed to you because Eastern Air Lines, Inc., is involved in one of the subject CAB orders.

Richard Darman's office has requested comments by close of business Wednesday, March 9, 1983 on the above-referenced CAB decisions involving international aviation, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by March 14, 15, 14, and 29, respectively).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve domestic carriers, judicial review is theoretically available. Hence, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review, as contemplated by the Executive Order for cases involving domestic airlines.

The Transatlantic Certificate Amendments order corrects technical problems in existing transatlantic certificates; the Houston-Acapulco and Dallas/Ft. Worth-London orders allocate routes previously served by Braniff Airways before it ceased operations; and the Capitol Air order authorizes that airline to serve Austrian routes.

-2-

A memorandum for Darman is attached for your review and signature. The memorandum notes that Mr. Fielding did not participate in the review of this matter.

Attachment

THE WHITE HOUSE

WASHINGTON

February 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Transatlantic; Houston-Acapulco; Dallas/
Ft. Worth-London; and Capitol Air, Inc.

Our office has reviewed the above-referenced CAB decisions and related materials and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

Mr. Fielding did not participate in the review of this matter.

FFF:JGR:aw 2/28/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

February 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Testimony of Alan C. Nelson on the
Immigration Reform and Control Act

The Department of Justice has submitted the above-referenced testimony, to be delivered February 28 before Senator Simpson's subcommittee, to OMB for clearance. Like the Attorney General's earlier testimony before this same subcommittee, Commissioner Nelson's testimony expresses support for S. 529, the re-submitted immigration legislation which passed the Senate during the last Congress. The testimony discusses some provisions of S. 529 in greater detail than previously submitted and cleared testimony, but generally tracks previously approved Administration positions. I see no legal objections.